



California State Lottery  
Headquarters  
600 North Tenth Street  
Sacramento, CA 95814

February 11, 2003

**RE: Invitation for Bid (IFB) #8912, Waste Disposal, Shredding and Recycling**  
**Bid Due Date: March 19, 2003**

To All Potential Bidders:

The California Lottery is inviting responses from qualified vendors to provide waste disposal, shredding, and recycling services as outlined in Exhibit A, Scope of Services, for the Lottery's Sacramento Headquarters Complex located at 598, 600, and 800 North 10<sup>th</sup> Street, Sacramento California, 95814. The contract will be awarded to the most responsible vendor submitting the lowest cost bid.

The Contract resulting from this IFB will be for a period of one (1) year with the option to extend for up to one (1) additional year under the same terms and conditions and at the sole discretion of the Lottery. The anticipated effective date of the contract will be May 1, 2003.

### **Mandatory Bidders' Walkthrough**

The purpose of the walkthrough is to permit bidders an opportunity to clarify the specifics of the IFB and the contract terms. Attendance is mandatory. Subcontractors may not represent the prime Bidder at a Mandatory Bidders' Conference. Bidders should allow additional time to be signed in by the guards and escorted to the conference room.

**The conference will be held at:**  
**10:00 a.m. (PST) on Wednesday, February 19, 2003**  
**California Lottery**  
**Headquarters Building, Conference Room 234**  
**600 North 10th Street**  
**Sacramento, CA 95814**

This solicitation is open to all vendors who 1) are licensed to do business in the State of California; 2) have an office in California; 3) can demonstrate that they have the resources, equipment, personnel, finances, etc. to provide the required services; and 4) meet the requirements of this bid request.

The contract award will be based on the lowest total monthly cost and the ability of the vendor to meet the requirements of this bid request. If two or more bidders tie with the lowest total monthly cost, the bidder with the lowest cost for Waste Disposal Containers will be selected.

**Bidders must complete and submit the following attached documents:**

Attachment 1, Price Sheet  
Attachment 2, Transmittal Form  
Attachment 2A, Subcontractor Information Form, if applicable  
Attachment 3, Guaranty  
Attachment 4, Mandatory Disabled Veteran Business Enterprise Participation Program  
Attachment 5, Small Business Preference forms, if applicable

### **Disabled Veteran Business Enterprise (DVBE) Participation Program**

The State of California has acknowledged disabled veterans for their service by establishing the Disabled Veteran Business Enterprise (DVBE) Participation Program. The program is intended to further their participation in state contracting, promote competition and encourage greater economic opportunity.

In accordance with Military and Veterans Code, section 999.2 et. Seq. the State of California has established a DVBE Participation goal of three percent (3%).

Based upon the goods and/or services to be provided in this IFB (as outlined in Exhibit A, Scope of Services) the Lottery has set a DVBE Participation Goal of 3%. Bidders will be required to meet this goal or document that they have made a Good Faith Effort to achieve the goal. The mandatory requirement of DVBE participation is met if the Bidder is itself a DVBE.

If the DVBE utilized to meet the 3% DVBE goal is also certified as a small business or microbusiness, the DVBE can be utilized to meet any or all of the Small Business Participation Goal for this solicitation.

Merely stating that a bidder "intends" to have a 3% DVBE participation **will not meet this mandatory requirement.**

The following steps are required to demonstrate a Good Faith Effort:

- a. Contact state, federal agencies, DVBE organizations, etc., to identify and recruit DVBEs. The Department of General Services' website, **[www.dgs.ca.gov](http://www.dgs.ca.gov)**, contains a listing of over 600 DVBEs.
- b. Advertise in trade papers or publications that focus on DVBEs, unless time limits are imposed by the awarding department do not permit that advertising.
- c. Document that invitations to bid were submitted to potential DVBE contractors.
- d. Document that available DVBEs were considered.
- e. Identify any DVBE contractors and the associated percentage of participation that could be achieved through this Good Faith Effort, if any.

To be eligible for certification as a Disabled Veteran Business Enterprise, your business:

- Must be at least 51% owned by one or more disabled veterans;

- Your daily business operations must be managed and controlled by one of more disabled veterans [the disabled veteran(s) who manages and controls the business is not required to be the disabled veteran business owner(s)], and,
- Your home office must be located in the U.S. (the home office cannot be a branch or subsidiary of a foreign corporation, foreign firm, or other foreign-based business).
- For certification purposes, a “disabled veteran” is a veteran of the U.S. military, naval, or air service; has a service-connected disability of at least 10% or more; and must be a California resident.

DVBE Bidders or subcontractors must be currently certified (or document that certification has been requested) by the Department of General Services. A copy of that certification is required to be submitted along with the Disabled Veteran Business Enterprise forms attached hereto. For questions regarding the Department of General Services DVBE certification process, visit DGS’s website **[www.dgs.ca.gov](http://www.dgs.ca.gov)** and/or call that office.

The successful Bidder's DVBE Participation Goal shall become part of the Contract with the Lottery. The Lottery’s BCRO shall monitor contractor compliance by requiring, at a minimum, annual reports on such participation.

Bidder must complete and submit the forms contained in Attachment 3, Disabled Veteran Business Enterprise. The Good Faith Effort steps should be submitted in a narrative format and if any DVBE participation is achieved through this effort, Bidders shall complete the forms contained in Attachment 3, Disabled Veteran Business Enterprise, attached hereto.

### **Small Business Participation (SBP) Preferences**

The Small Business Procurement and Contract Act (Gov. Code Section 14835 et. seq.) requires that a fair share of the State’s purchases and contracts for goods, information technology, services and construction be placed with small business or microbusiness. In order to facilitate the participation of these businesses, the Act mandates that state agencies: (1) establish participation goals, (2) provide a 5% small business preference; and (3) provide a nonsmall business preference of up to a maximum of 5% for bidders utilizing small business or microbusiness as subcontractors.

In carrying out this mandate, the Lottery has established a Small Business Participation Goal, Small Business Preference and Nonsmall Business Preference for utilization of small and microbusiness enterprise for this solicitation.

#### **a. Small Business Participation**

Based upon the nature of the goods/services to be utilized under this solicitation (as outlined in the Scope of Services, Exhibit A), the California Lottery has set a Small Business Participation of 10% for nonsmall businesses that provide for small business or microbusiness subcontractor participation for the contract resulting from this solicitation.

Bidders who qualify as a small or microbusiness have met this participation by virtue of their small business status.

Nonsmall business bidders that provide for small business or microbusiness participation are also eligible for this preference.

b. Small Business or Microbusiness Bidder Preference

As this IFB is to be awarded to the lowest and best responsible bidder, the preference given to a small business or microbusiness bidder will be 5% of the lowest and best responsible bid.

To be eligible for the Small Business Preference as a "small business", a company must be an independently owned and operated business, not dominant in its field of operation, with its principal place of business located in California and officers domiciled in California, and which together with affiliates is:

- A service, construction or non-manufacturer with 100 or fewer employees and an average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three years, **or**
- A manufacturer with 100 or fewer employees A manufacturer is a business that is:
  - (1) Primarily engaged in the chemical or mechanical transformation of raw materials or processed substances into new products; and
  - (2) Classified between Codes 2000 to 3999, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

A "microbusiness" is a small business that, together with affiliates, has average annual gross receipts of two million five hundred thousand dollars (\$2,500,000) or less over the previous three years, or is a manufacturer, as defined above, with 25 or fewer employees.

c. Nonsmall Business Bidder Preference

As this IFB is to be awarded to the lowest and best responsible bidder meeting specifications, a preference will be given to nonsmall business bidders that provide for small business or microbusiness subcontractor participation. Only nonsmall business bidders who provide for small business or microbusiness subcontractor participation are eligible for this preference.

The preference shall be up to a maximum of 5% of the lowest and best responsible bid. Nonsmall bidders who meet the small business participation of 10% will receive the maximum 5% preference.

Nonsmall business bidders who subcontract less than the 10% small business participation shall receive a pro-rated portion of the 5% preference based upon the percentage of participation commitment.

The preferences noted may not exceed fifty thousand dollars (\$50,000) for any bid. The 5% preference is used for computation purposes and will not alter the amounts of the actual cost proposals.

If a proposing bidder is currently certified as a small or microbusiness by the Department of General Services, Office of Small Business Certification and Resources (OSBCR) or any city, county, federal, etc., certifying office, only a copy of that certification is required. If a proposing bidder is requesting small or microbusiness certification with the Lottery, the bidder is required to submit a complete set of its signed Federal Tax Returns for the past three (3) years as well as Attachment 5, Small Business and Microbusiness Certification Form. The successful bidder will be required to provide this information for the small or microbusiness enterprises to be utilized as subcontractors.

The successful bidder's small and microbusiness participation shall become part of the contract resulting from this solicitation with the Lottery. The Lottery's BCRO shall monitor contractor compliance by requiring annual reports on such participation.

**All responses must be received at the Lottery Headquarters no later than 5:00 p.m., PST on Wednesday, March 19, 2003.** Bids received after this time and date will not be considered. Please mail or deliver bids to:

**California Lottery  
Facilities Operations  
Attention: Marian Boll  
600 North 10<sup>th</sup> Street  
Sacramento, CA 95814**

**BID ENCLOSED DO NOT OPEN IN MAILROOM**

Also attached for your review is a copy of Exhibit B, Contract Terms and Conditions, Exhibit C, Incompatible Activities and Ethical Conduct Standards and Exhibit D, California Lottery Act, Section 8880.57. Disclosures.

**Projected Timetable**

The following projected timetable is set forth for informational and planning purposes. The Lottery may change these dates without an IFB amendment at the Lottery's discretion. However, written notification will be provided to those Bidders with an Intent to Bid on file with the Lottery.

<u>Action</u>	<u>Date</u>	<u>Time</u>
Solicitation Issued	February 11, 2003	
Mandatory Vendors' Walkthrough	February 19, 2003	10:00 a.m. PST
IFB #8912 Waste Disposal	5	February 11, 2003

Intent to Bid Due	March 26, 2003	3:00 p.m. PST
Proposals Due	March 19, 2003	3:00 p.m. PST
Apparent Successful Bidder	April 18, 2003	
Projected Contract Effective Date	May 1, 2003	

### **Examination of All Requirements**

Bidders should thoroughly examine this document and become fully aware of the scope of services required. Responses must be based solely on the information and materials contained in IFB and any amendments issued by the Lottery. Bidders are to disregard any draft material they may have received, any newspaper advertisements or articles they may have read, and any oral representations made.

### **Amendments to Solicitation Document**

The Lottery reserves the right to amend this IFB prior to Contract execution. Notice of amendments will be sent to prospective Bidders who are on the Intent to Bid list.

If a Bidder fails to notify the Lottery of an error in this IFB which was known or reasonably should have been known to the Bidder, the Bidder shall submit a proposal at the Bidder's own risk. If awarded the Contract, the Bidder shall not be entitled to additional compensation or performance time by reason of the error or its later correction.

### **Intent to Bid**

Bidders must submit a written Intent to Bid (via fax, e-mail or US Mail) by **March 26, 2003, 3:00 PST**, in order to receive any further communications regarding this IFB, including addenda. If a written Intent to Bid is not sent, a bid may still be submitted, however, any further notices issued by the Lottery will only be sent to Bidders who have an Intent to Bid on file.

If you have any questions regarding this IFB, please contact me at (916) 322-6723, fax (916) 323-8107, or e-mail [mboll@calottery.com](mailto:mboll@calottery.com).

Sincerely,

Marian Boll, Contract Manager  
Business/Facilities Services Department

Attachments

## **EXHIBIT A**

### **SCOPE OF SERVICES WASTE DISPOSAL, SHREDDING AND RECYCLING SERVICES**

Contractor shall supply all labor, materials and equipment required to provide waste disposal, shredding and recycling services for the Lottery's Sacramento Headquarters Complex located at 598, 600, and 800 North 10<sup>th</sup> Street, Sacramento California, 94814. Contractor is responsible for complying with all applicable federal, state, and local laws with regard to removal and disposal of waste. Contractor agrees to defend, indemnify and otherwise hold harmless the Lottery and its officers and employees for any damage that results from Contractor's performance under this Contract.

#### **WASTE DISPOSAL SERVICES**

Services for the following Waste Disposal portion of the Contract shall occur during the week, Monday through Friday, between the hours of 7:30am and 4:00pm, excluding State holidays. If scheduled service visit falls on a State holiday, the Contractor shall reschedule the service for the workday either preceding or following the holiday. Collection of the materials within the offices is the responsibility of the Contractor. Waste Disposal services must include the following:

1. Provide and maintain five (5) 4 cubic yard bins and one (1) 6 cubic yard bin, all of which will be equipped with wheels of sufficient size and capacity as to prevent any damage to the existing asphalt or concrete surface of the dumping area.
2. Provide and maintain one (1) 40 cubic yard covered debris box, which is to be picked up and contents disposed of once every two (2) months.
3. Pick up and dispose of trash in each bin once every day, Monday through Friday, excluding holidays (time to be determined by the Lottery Contract Manager and the Contractor).
4. Provide extra pickups as needed and upon request by the Lottery Contract Manager. The extra pickups will be at the rate specified on the Contractor's Price Sheet (Attachment 1).
5. Assume all costs for disposing of materials including, but not limited to, dump fees licenses, HAZMAT disposal fees, and etc.
6. Bins may need to be maneuvered during pick up to ensure proper dumping. Clean up any debris, which falls out of the bin during trash pickup. Close bin lids and gates.
7. Provide additional or larger bins as requested by the Lottery. The rate of these additional or larger bins will be based upon the rate as specified on the Contractor's Price Sheet (Attachment 1).

## **SHREDDING AND RECYCLING SERVICES**

1. Contractor shall shred materials "as is". Lottery employees will not be required to sort through the materials and separate them by color or type, or to remove items, such as but not limited to, paper clips, binder clips, post-it notes, staples, manila folders, and rubber bands from the material prior to destruction. Contractor must also provide on-site destruction of Donor film ribbon, fax rolls, floppy disks, microfilm/fiche, video/audiotapes or CDs.
2. Contractor will be responsible for providing labor, recycling bins, materials, and equipment for recycling services at the California Lottery Headquarters Complex located at 598, 600, and 800 North 10<sup>th</sup> Street, Sacramento, CA. 95814.
3. Recycling bins will be used to recycle the following: confidential destruct papers, color paper items, newspapers, aluminum cans, glass bottles, and plastic containers. Bins are to be placed throughout Lottery offices as needed and picked up by Contractor and replaced with empty bins. A 64 gallon plastic container with wheels has a slot and the lid locks. The containers hold approximately 200 pounds. The executive consoles are usually gray and fit into most business environments. They have a slot in the front and a swinging door that locks. They have a large bag that can be removed and additional bags added. Each bag holds approximately 100 pounds.
4. Contractors' staff picking up the bins within the Lottery Buildings will be required to pass background investigations (including fingerprinting), which will be conducted by the Lottery's Security/Law Enforcement Division prior to start of Contract and from time to time thereafter, at the Lottery's discretion. For security reasons, Contractor employees shall wear uniforms, which plainly identify them as such. This shall include photo ID badges.
5. Contractor shall provide an enclosed, truck-mounted, industrial shredder, which has its own power source and will be able to provide full service regardless of weather conditions. Contractor's truck-mounted industrial shredder shall be able to shred a minimum of 2,000 pounds of paper material per hour. Contractor will be required to supply documentation that their shredders do shred this 2,000-pound per hour minimum. If the capability of the shredder used is less than the minimum, this will be grounds for the Lottery to cancel the Contract. Contractor must also have a back-up industrial shredder for immediate use in case their primary shredder becomes temporarily inoperable.

## **ADDITIONAL SERVICES**

1. Site shredding services on a weekly basis during Lottery business hours of 7:00 am till 5:00 p.m. All shredded products are to be recycled in compliance with the California Public Resources Code. The Lottery Security staff will witness shredding activities. Onsite services are to be conducted at the Lottery's 600 North 10<sup>th</sup> Street, Distribution Warehouse location, and may be required at the 800 North 10<sup>th</sup> Street Lottery Supply Warehouse location.



All recycling paper products will be brought to the mobile shredder by the Contractor's staff. Items to be shredded and or recycled will include, but not be limited to, the following:

- A. White paper and envelopes
  - B. Lottery Voided tickets
  - C. Lottery Scratchers ® Tickets, which may be wrapped in plastic cellophane
  - D. Confidential papers
  - E. Computer paper
2. Contractor will provide secured bins for confidential destruct items. These bins will be placed in designated areas for weekly pickup.
3. Additional items for recycling process:
- A. Paper products not listed above, for example:
    - 1) Newspapers
    - 2) Magazines and brochures
    - 3) All colored paper
    - 4) Telephone directories
    - 5) Cardboard boxes
  - B. Glass and plastic:
    - 1) Tempered glass from in-counter units
    - 2) Florescent light bulbs
    - 3) Glass bottles
    - 4) Plastic bottles
  - C. Wood:
    - 1) Wood furniture
    - 2) Wooden pallets
  - D. Equipment items, including:
    - 1) Computer equipment
    - 2) Copiers
    - 3) Fax machines
    - 4) Cellular phones
    - 5) Floppy discs
    - 6) Computer tapes
  - E. Metal products, including but not limited to:
    - 1) Shelving
    - 2) Metal banding material
    - 3) Copper phone wires misc.
    - 4) Aluminum cans
    - 5) Batteries
    - 6) Aerosol cans
    - 7) Cleaning products, caustic containers



4. Provide extra pickups as requested by the Lottery Contract Manager within the required response time set by the terms of the Contract. The extra pickups will be at the rate specified on the Contractor's Price Sheet (Attachment 1).
5. Assume all costs for disposing of materials including, but not limited to: staffing, dump fees, travel expenses, licenses, etc.
6. All paper products, including Lottery Scratchers® tickets, must be destroyed to a condition whereas the original product can not be recognizable or reconstructed. The tickets are to shred to a size no larger than ½ inch wide by 2 inches long. Noncompliance will result in cancellation of the Contract. Shredded material must be disposed of by a secure recycling service.
7. Contractor will provide a "Certificate of Destruction" to the Lottery witness at the completion of each service visit. In addition, the Contractor will provide a receipt to the Lottery witness at the completion of the service visit. The receipt will include the location of service, Lottery contact person, pounds destroyed, date of service, and the authorized Contractor representative and Lottery witness signatures. The receipt is to be used in support of charges invoiced.

#### **MONTHLY BILLING AND INVOICING**

A central billing statement for shredding services shall be done on a monthly basis in arrears. Each waste disposal, shredding and recycling service must be treated as a separate service for billing purposes. Monthly invoices will include location of service, date of service, charge per visits, and total charges for the month.

## **EXHIBIT B**

### **CONTRACT TERMS AND CONDITIONS**

**Contractor agrees to provide services specified in accordance with the following terms and conditions:**

#### **1.0 BINDING OFFER/DISQUALIFICATION**

This Section contains terms and conditions that apply to the Contract resulting from the Lottery's Invitation for Bid (IFB) #8912. By submitting a proposal, the Bidder acknowledges that it has read the IFB, understands it, and agrees to be bound by its terms and conditions.

#### **1.1 PARTIES AND PURPOSE**

The parties to the Contract are the California Lottery (hereinafter "Lottery") and \_\_\_\_\_ (hereinafter "Contractor"). The purpose of the Contract is to provide goods and services (hereinafter "Product") encompassing the scope of the project described in IFB #8912 and in Contractor's proposal in response to the IFB.

##### **1.1.1 Nonexclusive Rights**

Contractor understands and agrees that the Lottery does not grant the Contractor exclusive rights to provide to Lottery those services listed in Exhibit A, Scope of Services, during the period covered by this Contract or any extension thereto. The Lottery reserves the right, during the Contract term, to acquire these services through another vendor. The Lottery's good faith exercise of this right shall not constitute a breach of the Contract.

#### **1.2 TERM OF CONTRACT**

The term of the Contract shall be for 1 (one) year.

##### **1.2.1 Option TO Extend**

The Lottery may unilaterally extend the term of this Contract under the same terms and conditions for up to one (1) additional year extension from the contract's expiration date.

##### **1.2.2 Emergency Extended Service**

At the Lottery's sole discretion, the Contractor shall provide extended services and supplies for a period not to exceed 120 days from the effective date of the Contract termination or expiration. Services and supplies shall continue to be provided by Contractor and paid for by Lottery pursuant to the terms and conditions of this Contract.

### **1.2.3 Extended Service for Bidder Change**

The Lottery further reserves the right to continue operating under or further extend the initial contract, or any extension thereof, on thirty (30) days notice for multiple ninety (90) day periods as the Lottery deems necessary for transition if a different contractor is chosen for a subsequent contract. To meet this requirement, Contractor, in considerations for entering into the Contract, shall maintain the Product in a state of readiness for any such periods after the completion of the Contract. "State of readiness" means having the capability of extending the current Contract operations beyond the previously scheduled Contract term end date.

## **1.3 RELATIONSHIP AND AUTHORITY**

### **A. Contractual Relationship.**

The California Lottery Commission ("Commission"), as the governing body of the California Lottery and Contractor hereby agree that the Lottery is charged under state law with the duty to operate "so as to produce the maximum amount of net revenues to supplement the total amount of money allocated for public education in California." Contractor acknowledges that the Commission has the authority to exercise all powers necessary to effectuate the purpose of the California Lottery Act. The Commission will retain all such authority under the Contract. The Commission and Contractor further agree that Contractor is accountable and subject to the supervision of the Commission and its designated administrative officers under the Contract. In addition, the Commission and Contractor agree that Contractor shall be subject to all policies, rules and regulations of the Commission.

### **B. Authority.**

The laws of the State of California and any federal laws applicable to the Lottery govern the Contract. Contractor specifically agrees to be bound by all laws and court orders imposed upon the Lottery, insofar as they relate to the Contract. Contractor shall perform its duties and obligations subject to Lottery audit and oversight and the other terms and conditions of the Contract. Contractor shall have the power and authority; consistent with the limitations herein, to take such actions as may be necessary or desirable to properly, efficiently, fully and completely perform the Contract.

### **C. Jurisdiction and Venue.**

The proposal process, the award procedure, and any Contract resulting from the IFB shall be governed by and interpreted in accordance with this Section. By execution of the Contract, Contractor acknowledges and specifically agrees that the jurisdiction for any action hereunder shall be in the Superior Court for the State of California. The venue for any action hereunder shall be the Superior Court for Sacramento County, California. As consideration for entering into the Contract, Contractor waives access to any other court that may have concurrent jurisdiction inside or outside of California, and also agrees to exhaust all

remedies provided for in the Contract prior to instituting any litigation relating to the Contract.

## **1.4 OBLIGATIONS OF THE PARTIES**

### **1.4.1 Contract Managers**

Contractor designates \_\_\_\_\_ as its Contract Manager. Lottery designates \_\_\_\_\_ as the "Contract Manager." The contract managers are responsible for assuring compliance with the terms and conditions of the Contract and, unless otherwise specified in the Contract, shall have the authority to act for and bind the respective party in connection with the implementation of all aspects of the Contract. Whenever the Contract requires any action to be taken by the Lottery, such action shall be the sole responsibility of the Lottery's Contract Manager unless otherwise specified. Any action taken by any other employee of the Lottery in connection with the implementation of all aspects of this Contract without the specific written approval of the Lottery's Contract Manager shall be of no legal effect. The parties shall notify each other in writing within five (5) State working days of a proposed change in a contract manager. Any change in Contractor's Contract Manager shall be subject to Lottery approval.

### **1.4.2 Licenses and Permits**

The Contractor shall be an individual or firm licensed to do business in California and shall obtain at his/her expense all license(s) and permit(s) required by law for accomplishing any work required in connection with this Contract. Contractor shall provide the Lottery with copies of all required license(s)/permit(s).

In the event any license(s) and/or permit(s) expire at any time during the term of this Contract, Contractor agrees to provide the Lottery a copy of the renewed license(s) and/or permit(s) within 30 days following the expiration date.

### **1.4.3 Parties' Responsibilities Upon Termination and Transfer to New Contractor**

Upon termination or other expiration of this Contract, each party will assist the other party in its orderly termination and the transfer of all assets, tangible and intangible, as may facilitate the orderly, non-disrupted business continuation of each party. Contractor shall continue to provide and support the Product until migration to a replacement contract with a new contractor is complete. If the migration effort is required to continue beyond the term of this Contract, Contractor agrees to extend the Contract in accordance with the section entitled Extended Service for Bidder Change for the time necessary to complete the migration and orderly transfer.

### **1.4.4 Contractor's Compliance with Lottery Directives**

The parties shall strictly adhere to any order of the Lottery Deputy Director for Security relating to security and integrity of Contract performance.

#### **1.4.5 Confidentiality of Parties**

Contractor shall keep confidential all information and materials related to the Contract and shall not disclose any such information or materials to third parties unless approved in writing by the Lottery's Contract Manager, required by court order, or otherwise specifically permitted by the Contract.

#### **1.5 GENERAL WARRANTIES AND REPRESENTATIONS**

Contractor warrants and represents that:

- A. Contractor is fully authorized and prepared to enter into and fully perform the terms and conditions of the Contract;
- B. Contractor has secured or will have secured all necessary rights, clearances and/or licenses with respect to all material and elements embodied in or used in connection with the performance of the Contract and any extension periods;
- C. Any manufacturer or product warranties shall extend to any components of the Product supplied during the Contract and any extension periods;
- D. The Product shall in all respects meet or exceed all of the Lottery's requirements set forth in the IFB;
- E. Contractor will comply with all federal, State, and local laws, ordinances, rules, and regulations applicable to its activities and obligations under the Contract;
- F. All services provided by Contractor pursuant to the Contract will be performed in a prompt, competent manner by properly trained individuals in accordance with the highest standards of Contractor's industry;
- G. Contractor will, at all times during the term of the Contract and any extensions thereof, be qualified and professionally competent, and will procure and maintain, at its expense, all licenses, permits, and governmental approvals, if any, necessary to the performance of its obligations under the Contract;
- H. Contractor shall maintain the minimum staffing levels set forth in its plan submitted in response to the IFB.

#### **1.7 FISCAL PROVISIONS**

##### **1.7.1 Reduction of Funds**

The obligations of the parties under this Contract are subject to the availability of funds. If sufficient funds are not appropriated by the California Lottery Commission to the Lottery for this Contract, it shall be amended to reflect any reduction in funds or terminated after a thirty (30) calendar day written notice to the Contractor detailing the effective date of such termination.

### **1.7.2 Frequency of Payment**

Contractor shall be paid monthly in arrears upon submission of an invoice approved by the Lottery.

### **1.7.3 Tax Reporting**

The Contractor is hereby notified that section 6041 of the Federal Internal Revenue Code and section 18646 of the State Revenue and Taxation Code require the State to report certain payments to individuals. No claims for payment shall be processed by the State without the necessary information as specified in section 6041 of the Federal Internal Revenue Code and section 18646 of the State Revenue and Taxation Code. The Contractor agrees to abide by these conditions and to provide the information requested for those tax-reporting requirements.

### **1.7.4 Withholds**

- A. The Lottery shall have the right to withhold or delay payments to Contractor, in whole or in part, if Contractor fails to perform its material obligations set forth in the Contract.
- B. For the last month of the Contract and any extensions invoked pursuant to the section entitled Extended Service for Bidder Change the Lottery may withhold up to five (5) percent of its payments to Contractor which shall be released solely in the Lottery's discretion upon completion of satisfactory transfer to a new contractor.
- C. Amounts due the Lottery by Contractor, including, but not limited to, any amounts set forth in the sections entitled Fiscal Provisions and Loss Prevention, may be deducted or offset by the Lottery from any money payable to Contractor pursuant to the Contract.
- D. Should Contractor cure the performance failure giving rise to the withhold, the Lottery shall review the matter with Contractor and determine, within its discretion, whether the Lottery will continue to withhold payment or otherwise offset money due Contractor.

### **1.7.5 Full Compensation**

The compensation to be paid the Contractor as provided herein, shall be in consideration for all of the Contractor's services and administrative expenses including travel, per diem, services related training and all applicable taxes, unless otherwise agreed by both parties.

### **1.7.6 Invoicing**

Contractor will not issue any invoices for the Contract until final approval by the Commission and execution of the Contract. All payments to Contractor under the Contract will be subject to the Lottery's payment terms, which are net thirty (30)

calendar days from receipt by the Lottery of a correct invoice. Each invoice will contain total Contract payroll, total Contractor hours worked, supplier invoices, subcontractor Invoices including total hours worked, and any other information identified by the Lottery's Contract Manager.

Following execution of the Contract, Contractor shall submit invoices in triplicate on a monthly basis, in arrears, noting the Contract number, detailing the subject matter of the invoice to:

**California Lottery  
Accounting Operations and Tax Bureau  
P.O. Box 778  
Sacramento, CA 95812-0778**

Each invoice must include documents necessary to support and substantiate costs. Contractor is required to mark "Final Invoice" on the last invoice to be submitted to the Lottery for payment.

If no final invoice is received within one hundred and eighty (180) calendar days after the termination of the Contract or expiration of the Contract by its own terms, Contractor waives the right to receive any further payments under the Contract.

#### **1.7.7 Payment**

In accordance with Government Code section 927.4, payments shall be made within forty-five (45) calendar days after the postmark date of the invoice unless an invoice is disputed. Interest shall accrue and be charged on payments which are overdue within the meaning of section 927.6 at a rate of 1% above the rate accrued on June 30<sup>th</sup> of the prior year of the Pooled Money Investment Fund, but not to exceed 15%.

If the Contractor is certified with the Department of General Services or with the California Lottery as a small business, payment shall be in accordance with Government Code section 927.6. Payments shall be made within thirty (30) calendar days after the postmark date of the invoice unless specified otherwise within the Contract or unless an invoice is disputed. Interest shall accrue and be charged on payments that are overdue within the meaning of section 927.6 at a rate of 1/4% (.0025) per calendar day starting on the 31<sup>st</sup> day.

The Lottery is prohibited from making interest penalty fee payment of less than \$75.00. If the Lottery determines that an invoice was improperly executed, or that additional evidence of the validity of the invoice is required, the Lottery will notify the Contractor of a disputed invoice within fifteen (15) calendar days from receipt of the invoice. Once the invoice is corrected, payments shall be made within forty-five (45) days from receipt of the corrected invoice. If Contractor qualifies as a small business as discussed above, then payment shall be made within thirty (30) days from receipt of the corrected invoice.

#### **1.7.8 Notice of Monies Due**



The Lottery will notify the Contractor in writing when and if any monies are due the Lottery. Any monies the Contractor owes the Lottery shall be paid to the Lottery within forty-five (45) days after the postmark of the notice of the amount due or the amount due will be deducted from compensation otherwise due the Contractor by the Lottery

## **1.8 LOSS PREVENTION**

Contractor shall acquire and maintain insurance/bond coverage against such hazards and in such amounts as set forth in this section 1.8 and following subsections 1.8.1 through 1.8.5 and shall defend, indemnify and hold the Lottery harmless pursuant to subsections 1.8.4 and 1.8.5. Copies of the required policies shall be provided to the Lottery within thirty (30) calendar days after execution of the Contract, and shall remain in force during the term of the Contract and any extensions. The insurance/bonds shall have a term of not less than one (1) year. The insurance/bond shall be issued by companies rated A-minus or better by the AM Best Company, or meet the approval of the Lottery. The Lottery shall be named as the Obligee in each required bond. The Lottery, Lottery Commission, Lottery Commission members, Lottery officers and employees shall be added as additional named insureds in each required insurance policy except for Workers' Compensation and Errors and Omissions Insurance. Each policy shall contain a provision whereby it cannot be canceled except by giving thirty (30) days written notice to insured or certificate holders. If Contractor's carrier cancels any policy, the Contractor shall immediately obtain a replacement policy prior to expiration of the thirty (30) day notice period. Failure to provide and maintain any insurance or bonds may result in the termination of the Contract. Contractor shall furnish to Lottery evidence of insurance/bonds as required by subsections 1.8.1 through 1.8.5.

### **1.8.1 Fidelity Bond/Crime Insurance**

Contractor shall maintain a Fidelity Bond/Crime Insurance in an amount within the Lottery's discretion not to exceed the amount obligated under this Contract, to cover any loss to the Lottery due to any fraudulent or dishonest act by Contractor, its agents, employees or subcontractors. Crime/Employee Dishonesty insurance in the same dollar amount may be substituted for a Fidelity Bond. If substituted, the insurance requirements stated above shall apply.

### **1.8.2 Workers' Compensation**

Contractor shall maintain Workers' Compensation insurance for all of its employees who will be engaged in the performance of the Contract pursuant to the requirements of California Labor Code section 3700.

### **1.8.3 Commercial General Liability or Public Liability Insurance**

Contractor shall maintain commercial General Liability insurance with limits of at least one million dollars (\$1,000,000) for any one person and one million dollars (\$1,000,000) for any one occurrence for death or bodily injury, and one million dollars (\$1,000,000) for any one occurrence for property damage. The policy shall

include coverage for liabilities arising out of premises, operations, independent contractors, products and completed operations with a two million dollars (\$2,000,000) aggregate, personal and advertising injury, and liability assumed under an insured Contract. The policy must include the Lottery as loss payee, insofar as the operations under the Contract are concerned.

#### **1.8.4 Automobile Insurance**

Contractor shall maintain automobile insurance for automotive equipment used in the process of performing the requirements of the Contract with limits of not less than one million dollars (\$1,000,000) per occurrence for bodily injury and property damage liability combined with a two million dollar (\$2,000,000) aggregate. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to Contractor's limit of liability.

#### **1.8.5 Indemnification**

- A. Contractor shall defend, indemnify, and hold harmless, at Contractor's expense, the State of California, the Lottery, Lottery Commission, Lottery Commission members, Lottery officers, employees and agents, and their respective successors, heirs, representatives, administrators and assigns, from and against any and all responsibilities, suits, judgment, awards, costs, damages, claims, demands, actions, causes of action, expenses or liabilities of every nature threatened or brought against, sustained or incurred by any of them, whether joint, several, or individual (hereafter referred to as "claims") resulting or arising from or in any way connected with or based on any of the following: (i) the activities of Contractor or its officers, employees, subcontractors, or agents in connection with the Contract; (ii) a breach of a term of the Contract by Contractor; (iii) a claim against the Lottery which, if true, would constitute a breach of any of the representations and warranties set forth in the section entitled General Warranties and Representations; and (iv) any protest filed by a third party following announcement of Contractor as the proposed successful Bidder of the Contract; provided that the Lottery provides Contractor reasonable assistance, at Contractor's expense, in the defense of such claims. Contractor's obligations hereunder shall include any and all losses, damages, liabilities, settlements, judgments, fines, costs, fees, and expenses of any nature whatsoever, including but not limited to fees of attorneys and other professionals at trial and on appeal.
- B. Neither Contractor nor any attorney engaged by Contractor will defend against such claims in the name of the Lottery, nor purport to act as a legal representative of the Lottery, without the prior written consent of the Director of the Lottery.
- C. The Lottery may, at its election and at the Contractor's expense, assume its own defense and settlement in the event that the Lottery determines that: (i) Contractor is prohibited from defending the Lottery; (ii) Contractor is not adequately defending the Lottery's interests; or (iii) an important governmental principle is at issue and the Lottery desires to assume its own defense.

- D. The indemnities set forth in this subsection are in addition to, and not in lieu of, any other indemnities provided hereunder or by law.
- E. Contractor shall give the Director immediate notice in writing of any action or suit filed against Contractor that is related in any way to the Contract. Likewise, the Lottery will notify Contractor of any action or suit filed against Lottery relating to the Contract.

## **1.9 CONTRACT MANAGEMENT OVERVIEW, REMEDIES**

The purpose of this Section is to describe the process and the standards that will be used to manage the Contract resulting from this IFB.

### **1.9.1 Contract Management**

### **1.9.2 Contract Manager Communications**

Contractor's Contract Manager and the Lottery's Contract Manager shall meet as determined by the Lottery's Contract Manager, to discuss contractor performance, the status of corrective action plans, corrective actions, change requests, and other Contract matters as necessary. Key managers and support staff from both the Contractor and the Lottery may attend these meetings at the request of either Contract Manager.

Issues of potential disagreement regarding Contract matters such as overall performance, terms and conditions, payments, service levels, changes in contracted services, and other proposed changes require written communications between the respective Contract Managers.

### **1.9.4 Problem Management**

#### **1.9.4.1 Day-to-Day Problem Reporting**

The Lottery Contract Manager shall specify the types of problems requiring the Contractor to immediately notify the Lottery and the process for providing notice.

### **1.9.4 Financial Provisions**

#### **1.9.4.1 Invoicing and Payment**

Contractor shall forward invoices pursuant to the section entitled Invoicing. The Lottery Contract Manager or designee shall review the invoice for completeness and accuracy and either approve or dispute it. Disputed invoices shall be returned to the Contractor with an explanation.

#### **1.9.4.2 Financial Assessments**

Financial assessments are reimbursement claims that the Lottery may impose if the service level standards set forth in this IFB, or as subsequently agreed upon, are not met. The Contract Managers, at either request, shall meet to jointly assess overall performance in satisfying standards.

If the Lottery's Contract Manager determines that the Contractor has not complied with a service level standard and that an assessment should be imposed, the Lottery's Contract Manager shall notify the Contractor in writing. The notice shall include:

- The date(s) of the incident(s) that triggered the assessment
- A brief description of the incident(s)
- The relevant Contract reference
- Instruction to the Contractor to deduct the assessment from the next invoice
- An explanation of how to protest the claim

Contractor shall deduct the assessment amount from the amount billed in the next invoice. If the stated amount is not deducted and the Contractor does not protest the amount, the Lottery shall withhold or delay the assessment amount from Contractor's payment as provided in the section entitled Withholds.

If the Contractor disputes either the assessment amount or whether the Lottery is entitled to any assessment, the parties shall mutually attempt to negotiate an amicable resolution of the dispute in accordance with the section entitled Dispute Resolution.

## **1.10 CONTRACT OVERSIGHT**

### **1.10.1 Disclosures**

The Contractor may be required to disclose certain information about itself and its subcontractors pursuant to California Government Code section 8880.57. Contractor is required to notify the Lottery of the identity of potential subcontractors and may be required to periodically update other disclosure requirements during the term of the Contract. (See Exhibit D, attached hereto and incorporated herein by this reference.)

### **1.10.2 Ethical Conduct Guidelines**

The Lottery has adopted an Incompatible Activities and Ethical Conduct Standards policy which states that certain transactions between Lottery contractors and employees are either prohibited or subject to restriction. In some circumstance family or social relationships between contractor or subcontractor personnel and Lottery employees must be disclosed. A copy of the Incompatible Activities and Ethical Conduct Standards is attached as Exhibit C. Lottery Contractors and their

agents and employees are expected to read Exhibit C, and cooperate with its requirements. Contractor and subcontractor personnel may also be asked to disclose information relevant to the Incompatible Activities and Ethical Conduct Standards (from time to time throughout the Contract term), in keeping with the Lottery's mandate to conduct the Lottery with integrity, honesty, and security

### **1.10.3 Background Investigations/Lottery Approval of Staffing**

The Lottery may investigate Contractor, its officers, directors, principals, investors, owners, employees or other associates, and/or the officers, directors, principals, investors, owners, employees, and other associates of the Contractor's parent entity, subsidiaries, and/or subcontractors at any time during the life of the Contract, at the discretion of the Director of the Security Division. The Lottery may reject a bid or terminate the Contract based on the results of these investigations as provided in California Government Code sections 8880.57 and 8880.58.

Furthermore, Contractor understands and agrees that, in furtherance of the Lottery's full disclosure requirements, any person associated with the performance of the Contract may be fingerprinted and may be required to complete a Personal History Statement and an Authorization to Release Personal Background Information form.

The Lottery reserves the right to disapprove any Contractor and/or subcontractor personnel assigned to the Contract. Any personnel deemed unacceptable to the Lottery shall immediately be removed from the Contract and all facilities. All subcontracts must include a provision implementing this right.

Contractor and/or subcontractor personnel shall not be assigned to the Contract if they have ever been convicted of a felony, gambling-related offense, or a crime involving dishonesty. This Contract may be subject to termination if the Contractor knowingly assigns to or fails to remove from the Contract, personnel with criminal convictions as described above.

### **1.10.4 Nondiscrimination Clause**

During the performance of this Contract, the Contractor and its subcontractor(s) shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), marital status, age (over 40), sexual orientation, or sex. The Contractor and the subcontractor(s) shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. The Contractors and the subcontractors shall comply with provisions of federal law and with the State Fair Employment and Housing Act (Gov. Code sec. 12900, et seq., as amended) and the applicable regulations promulgated thereunder (Calif. Code of Regulations, Title 2, sec. 7285.0, et seq., as amended). Violation of this paragraph is grounds to terminate this Contract for breach, and any loss of revenue sustained by the Lottery by reason thereof shall be borne and paid for by the Contractor.

The Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract. The Contractor and its subcontractor(s) shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other contract. The Contractor and subcontractor(s) will permit access to their records of employment, employment advertisement application forms, and other pertinent data and records, by the State Department of Fair Employment and Housing or any other agent designated by the Lottery to investigate and to ascertain compliance with the nondiscrimination section of this Contract.

#### **1.10.5 National Labor Relations Board Certification**

The Contractor, by signing this Contract, swears under penalty of perjury that no more than one (1) final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board. A finding of contempt excludes a finding which has been vacated, dismissed, or removed by the court because the Contractor complied with the order. (See Pub. Contract Code sec. 10296.)

#### **1.10.6 Drug-Free Workplace**

The Contractor hereby certifies compliance with Government Code section 8355 in matters relating to providing a drug-free workplace. The Contractor will:

- A. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code section 8355(a).
- B. Establish a Drug-Free Awareness Program as required by Government Code section 8355(b), to inform employees about all of the following:
  - 1. The dangers of drug abuse in the workplace;
  - 2. The company's policy of maintaining a drug-free workplace;
  - 3. Any available counseling, rehabilitation and Community Relations programs; and
  - 4. Penalties that may be imposed on employees for drug abuse violations.
- C. Provide as required by Government Code section 8355(c) that every employee who works on the Contract:
  - 1. Will receive a copy of the company's drug-free policy statement; and

2. Will agree to abide by the terms of the company's statement as a condition of employment on the Contract.

#### **1.10.7 Equipment Accessibility**

Contractor assures the Lottery that any equipment to be manufactured and/or supplied during the course of the Contract shall comply with the access requirements of the Americans with Disabilities Act (ADA) of 1990, all applicable federal regulations and guidelines, and comparable state laws.

#### **1.10.8 Project Monitoring**

The Lottery and all authorized State control agencies shall have access to all internal and external reports and documents used by the Contractor in the performance and administration of this Contract. The Contractor shall provide all duly authorized representatives of the Lottery or the State with full access to any and all Contractor and subcontractor procedures not described elsewhere in this Contract.

#### **1.10.9 Small Business and/or DVBE Participation Monitoring**

The Lottery's Business and Community Relations Office (BCRO) shall monitor the Contractor's Small Business Participation and the Disabled Veteran Business Enterprise (DVBE) Participation, if applicable. At a minimum, annual reports from the Contractor will be required on such participation.

#### **1.10.10 Access to Financial and Accounting Records**

The Contractor and all its subcontractors for this Contract are required to maintain financial and accounting records and other documents and evidence, including but not limited to electronic versions, hereinafter "documents", pertaining to the fulfillment of the Contract obligations in accordance with generally accepted accounting principles and other procedures that may be specified by the Lottery. These documents must be made available to the Lottery, its designees, the California State Controller or other State agencies during the Contract term and any extension thereto (see Gov. Code sec 8880.67). These documents must be retained for four (4) years from the date of final payment of the Contract.

The Lottery reserves the right to audit all Contractor and subcontractor documents and procedures, as they relate to this Contract, using Lottery employees, its designees or other State vendor employees as provided by law.

- A. The Contractor shall make available to the Lottery authenticated requisitions for payment (including invoices from suppliers, etc.) and proof of payment to third parties for all work and services on behalf of the Lottery's accounts. Said items shall be made available on demand to the Lottery.
- B. The Contractor shall make available to the Lottery all documents relating to the Contract as well as expenses incurred by the Contractor on the Lottery's behalf

for which Contractor claims reimbursement. All documents shall be open to examination and inspection by an authorized representative of the Lottery at all reasonable times.

#### **1.10.11 Evaluation of Contractor**

In accordance with procedures established by the Lottery, the Contractor's performance under this Contract will be evaluated. The evaluation will be prepared by the Lottery's Contract Manager and forwarded to the Contract Services Section within thirty (30) days after termination or expiration of this Contract. The evaluation shall include quality and adequacy of performance, and whether performance is timely.

#### **1.10.12 Dispute Resolution**

The parties shall mutually attempt to negotiate an amicable resolution of any dispute in accordance with this subsection.

- A. Notification. The contract manager of the complaining party shall notify the contract manager of the other party in writing specifying the issue for resolution in reasonable detail (the "Notice").
- B. Response. The non-complaining party shall respond to the Notice in writing within five (5) State working days. The parties agree to abide by the following procedure:
  - 1. If the non-complaining party acknowledges responsibility, the response shall specify the steps that will be taken to resolve the issue and the reasonable time schedule for such resolution, taking into consideration the Lottery's business needs. The parties agree to consider all good faith and reasonable solutions and to exercise all reasonable efforts to resolve the issue.
  - 2. If the non-complaining party does not acknowledge responsibility in the response, the parties' contract managers will meet in person within two (2) State working days after such non-acknowledgement with the sole task of determining responsibility, and what steps the responsible party should take to resolve the issue. The contract managers shall meet as often as reasonably necessary and shall gather and furnish to the other party all relevant information reasonably necessary to resolve the issue.
- C. Escalation. If the parties are (1) unable within five (5) State working days from receipt of the non-complaining party's response to the Notice, to resolve the dispute, or (2) the responsible party has not taken steps to resolve the dispute according to the agreed upon time schedule, then the Lottery Director's or his or her designee and the Contractor's Principal Owner or Executive Officer shall meet as soon as practicable, but at least within five (5) State working days to discuss and attempt to mutually satisfactorily resolve the dispute. Each party agrees not to initiate court proceedings until twenty (20) State working days after



either party concludes in good faith and notifies the other in writing that amicable resolution through continued negotiation appears unlikely.

#### **1.10.13 Notice of Delay**

Whenever the Contractor has knowledge that any actual or potential situation, including but not limited to labor disputes, will delay or threatens to delay timely performance of the work under this Contract, the Contractor shall immediately give written notice thereof and provide any relevant information to the Lottery's Contract Manager.

### **1.11 EXPIRATION OR TERMINATION OF CONTRACT**

Expiration or termination of the Contract shall be accomplished in accordance with this subsection.

#### **1.11.1 Expiration of the Contract**

Absent early termination of the Contract pursuant to the terms of this subsection, the Contract shall expire at the end of the last contract term as provided for in the sections entitled Term of Contract and Option to extend.

#### **1.11.2 Termination for Default**

- A. The Lottery may, by written notice of default to Contractor, terminate the Contract in whole or in part if:
1. Contractor fails to deliver material Products within the time specified in the Contract or any extension;
  2. Contractor fails to make progress, so as to endanger performance of the Contract;
  3. Contractor fails to perform any material provision of this Contract;
  4. A receiver, conservator, liquidator, or trustee of Contractor, or of any of its property is appointed by order or decree of any court or agency or supervisory authority having jurisdiction; or an order for relief is entered against Contractor, under the Federal Bankruptcy Code; or Contractor is adjudicated bankrupt or insolvent; or any portion of the property of Contractor is sequestered by court order and such order remains in effect for more than thirty (30) calendar days after such party obtains knowledge thereof; or a petition is filed against Contractor under any state, reorganization, arrangement, insolvency, readjustment of debt, dissolution, liquidation, or receivership law of any jurisdiction, whether now or hereafter in effect, and such petition is not dismissed within thirty (30) calendar days;
  5. Contractor files a case under the Federal Bankruptcy Code or is seeking relief under any provision of any bankruptcy, reorganization, arrangement,

insolvency, readjustment of debt, dissolution, receivership or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any case or petition against it under any such law;

6. Contractor makes an assignment for the benefit of its creditors, or admits in writing its inability to pay its debts generally as they become due, or consents to the appointment of a receiver, trustee, or liquidator of Contractor or of all or any part of its property; or judgment for the payment of money in excess of \$50,000.00 (which is not covered by insurance) is rendered by any court or governmental body against Contractor, and Contractor does not discharge the same or provide for its discharge in accordance with its terms, or procure a stay of execution thereof within thirty (30) calendar days from the date of entry thereof, and within said 30-day period or such longer period during which execution of such judgment shall have been stayed, appeal there from and cause the execution thereof to be stayed during such appeal while providing such reserves therefore as may be required under generally accepted accounting principles; or a writ or warrant of attachment or any similar process shall be issued by any court against all or any material portion of the property of Contractor, and such writ or warrant of attachment or any similar process is not released or bonded within thirty (30) calendar days after its entry;
7. A court of competent jurisdiction finds that Contractor has failed to adhere to any law, ordinance, rule, regulation or order that indicates a lack of business integrity or business honesty that seriously and directly affects the present responsibility of Contractor of performing the Contract for the Lottery;
8. Contractor fails to communicate on material matters with the Lottery as required by the Contract;
9. Contractor fails to comply with the sections entitled Personnel and Key Personnel;
10. Contractor breaches the IFB's standard of confidentiality with respect to this IFB or the Product provided thereunder;
11. Contractor engages in conduct that results in a material negative public impression including, but not limited to, creating the appearance of impropriety with respect to the Lottery, the Product, the Contractor, or the State of California;
12. Contractor has knowingly or acting with a reckless disregard of the truth furnished any material statement, representation, warranty or certification to the Lottery which is false, deceptive, or incomplete.

The Lottery's right to terminate the Contract under subsection A, may be exercised, in the event the Contractor's breach is curable, only if Contractor does not cure such breach within 10 State working days (or more if

authorized in writing by the Lottery's Contract Manager) after receipt of the notice from the Lottery specifying the breach.

If the Lottery terminates the Contract in whole or in part, it may acquire, under the terms and in the manner the Lottery considers appropriate, a Product similar to those terminated, and Contractor will be liable to the Lottery for any reasonable excess costs for that Product. However, Contractor shall continue the work not terminated.

- B. If the Contract is terminated for default, the Lottery may require Contractor to transfer title and deliver to the Lottery, as directed by the Lottery, any (1) completed Product; (2) partially completed Product, materials, and parts; and (3) license rights to any intellectual property including but not limited to software, designs, plans, and technical data that the Contractor has produced, acquired, or utilized for the terminated portion of the Contract. Upon direction of the Lottery, Contractor shall also protect and preserve property in its possession in which the Lottery has an interest.
1. The Lottery shall pay the Contract price for completed Product delivered and accepted. Contractor and the Lottery shall agree on the amount of payment for Product, materials, and parts and license rights to any intellectual property delivered and accepted by the Lottery and for the protection and preservation of the property. Failure to agree will be a dispute under the section entitled Dispute Resolution. The Lottery may withhold from these amounts any sum the Lottery determines to be necessary to protect the Lottery against loss because of outstanding liens or claims of lien holders.
  2. If, after termination, it is determined that Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Lottery. In that case, Contractor shall be entitled to compensation upon submission of invoices and proper proof of claim for that portion of the Product, which were satisfactorily rendered or provided prior to the effective date of termination and other reasonable charges Contractor can demonstrate to the satisfaction of the Lottery have resulted from the termination.
- C. The rights and remedies of the Lottery in this subsection are in addition to any other rights and remedies provided by law or under the Contract.

### **1.11.3 Termination Based on Illegality**

The Lottery may terminate in whole or in part and reduce Contractor's future compensation under the Contract immediately upon its determination that an activity or operation supported by the Contract is no longer lawful for reasons including, but not limited to, court decision, legislative action, administrative decision, or advice of counsel. Upon receipt of notice of termination or reduction based on a finding of illegality, Contractor shall immediately cease performance of such activity or operation and shall mitigate damages. The amount of compensation reduction shall

correspond to the cost and expected profit of the activity or operation terminated minus reasonable costs associated with the termination. Contractor shall submit, within 90 calendar days of the receipt of a notice of termination or reduction pursuant to this subsection, a compensation reduction proposal. If Contractor and the Lottery fail to agree on the amount of compensation reduction, the Lottery shall reduce the compensation as determined by its calculations.

#### **1.11.4 Termination for Convenience**

The Lottery retains the option to immediately terminate the Contract for the Lottery's convenience upon written notice to the Contractor. Upon receipt of notice of termination, Contractor shall cease performance and shall mitigate damages. Contractor shall be entitled to compensation upon submission of invoices and proper proof of claim for that portion of the Contract, which was satisfactorily rendered or provided prior to the effective date of termination. The Lottery may also compensate Contractor for expenses incurred as a result of binding commitments made in connection with Contractor's performance of the Contract. Contractor shall submit proof of such expenses incurred. However, compensation for such expenses lies within the sole discretion of the Lottery.

In the event of termination for convenience, the Contractor shall furnish copies of all materials related to performance hereunder at the time of termination.

#### **1.11.5 Changes**

- A. The Lottery Contract Manager may at any time, by written order, make changes to the Product, including but not limited to, the delivery of the Product, not otherwise specified in this Contract that are within the general scope of the Contract.
- B. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under the Contract, whether or not changed by the order, the Lottery shall make an equitable adjustment in the Contract price, the delivery schedule, or both, and shall modify the Contract. No equitable adjustment shall be owed to Contractor for changes that are customarily provided by lottery contractors as part of lottery contracts.
- C. Contractor must assert its right to an adjustment under this clause within 30 calendar days from the date of receipt of the written order. However, if the Lottery decides that the facts justify it, the Lottery may receive and act upon a proposal submitted before final payment of the Contract.
- D. If Contractor's proposal includes the cost of property made obsolete or excess by the change, the Lottery shall have the right to prescribe the manner of the disposition of the property.
- E. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse Contractor from proceeding with the Contract as changed.

## **1.12 MISCELLANEOUS PROVISIONS**

### **1.12.1 Full Force and Effect**

This Contract is of no force and effect until signed by all parties and all approvals are secured ("Execution"). Any commencement of performance prior to Contract execution shall be done at the Contractor's own risk.

### **1.12.2 Amendment**

The Contract may be amended only by mutual written consent of the parties signed by each party's signatory to the Contract or his or her successor. No alteration or variation of the terms of this Contract shall be valid or binding unless so made, and no prior oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

### **1.12.3 Force Majeure**

Neither Contractor nor the Lottery shall be liable for any delay in or failure of performance under the Contract due to a Force Majeure occurrence provided that the Contractor shall use reasonably diligent efforts to avoid or otherwise minimize the impact of an event of Force Majeure on the Contractor's performance. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of the cause(s) of such delay or failure shall extend the period for performance to such extent as determined by the Lottery's Contract Manager or designee to be necessary to enable complete performance by Contractor if reasonable diligence is exercised after the cause of delay or failure has been removed.

Force Majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled. As herein used, "Force Majeure" means an act of God or public enemy, earthquake, fire, flood, explosion, epidemic, quarantine restriction, strikes, freight embargoes or closure of all major access roads to geographic area, action of the elements, governmental interference, rationing or any other cause which is beyond the control of the party affected and which, by the exercise of reasonable diligence, a party is unable to control. Interruptions, delays, or other failures to perform as required under the Contract because of date related changes, shall not be considered a Force Majeure event.

### **1.12.4 Waiver of Provisions**

No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent to the breach shall be in writing and signed by an individual authorized on behalf of the party against whom such waiver or consent is sought to be enforced. No consent by either party to or waiver of a breach by the other, whether express or implied, shall constitute a consent to, waiver of, or excuse for any other breach or subsequent breach except as may be expressly provided in the written waiver or consent.

### 1.12.5 Order of Precedence

The terms and conditions of the Contract supercede any other oral or prior written communication concerning the nature of this Contract. All other oral or prior written communications concerning the nature of the Contract shall be of no effect and shall not be used as evidence of either party's intent.

The entire Contract consists of the following three (3) documents.

- A. Terms and Conditions set forth in the section entitled Contract Terms and Conditions.
- B. The Lottery's IFB # 8912 and any amendments thereto.
- C. Contractor's proposal in response to IFB #8912 and any clarifications/ amendments submitted in response to requests by the Lottery.

If there are any inconsistencies or ambiguities in the Contract, the Contract shall be interpreted by the documents in the order of precedence referenced above.

### 1.12.6 Notices in General

Any notice, request, demand, consent, waiver, or other item required or permitted under this Contract or applicable law must be in writing and shall be deemed duly given or made only (a) if personally served upon the party intended to receive it, in which case it is effective when delivered; or (b) is sent by certified mail, return receipt requested, postage prepaid, addressed to the party at its address set forth below, in which case it is effective on receipt by any person residing at such address; or (c) is sent by telefax (but only if a "FAX" number is set forth below) with a copy sent on the same date by first class mail, postage prepaid, addressed to the party at its address set forth below, in which case it is effective as of the date of mailing.

#### LOTTERY

Name: California Lottery  
Address: 600 North 10<sup>th</sup> Street  
Sacramento, CA 95814-0393  
Phone #: (916) \_\_\_\_\_  
FAX #: (916) \_\_\_\_\_  
Attn.: \_\_\_\_\_

#### CONTRACTOR

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_  
FAX #: \_\_\_\_\_  
Attn.: \_\_\_\_\_

A party may change its address for purposes of this Contract only by giving written notice to the other in the manner set forth herein.

#### **1.12.7 Invalidity in Whole or in Part/Severability**

If any provision of this Contract is held illegal, invalid, or unenforceable under any applicable rule or law, such invalidity shall not affect other provisions which can be given effect without the invalid provisions, and to this end, such provision(s) is declared to be severable.

#### **1.12.8 Execution of Counterparts**

The parties shall deem the execution of a copy of the Contract hereto as having the same force and effect as though the parties so executing said copy had executed the original.

#### **1.12.9 Sections and Subsection Headings**

The Section and subsection headings contained herein are for convenience in reference and are not intended to define scope of any provision of the Contract.

#### **1.12.10 Assignment**

Contractor shall not assign any performance of or payment for the Contract or any portion thereof without the prior written consent of the Lottery. Any attempt by Contractor to make such assignment without the prior written consent of the Lottery shall be void and shall constitute a material breach of the Contract.

#### **1.12.11 Subcontracting**

Contractor may enter into subcontract(s) under the Contract if the subcontractor agrees to be bound to the Contractor in the same manner as Contractor is bound to the Lottery. Contractor shall notify the Lottery of its intent to enter into each subcontract at least thirty (30) calendar days prior to its final execution, the work to be subcontracted, and the termination of each subcontract. The Lottery may approve or disapprove a subcontractor at any time.

Nothing contained in the Contract shall create any contractual relation, whether third party or otherwise, between the Lottery and any subcontractors. Contractor agrees to be as fully responsible to the Lottery for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Contractor.

Contractor's obligation to pay its subcontractors is an independent obligation from the Lottery's obligation to make payment to Contractor. As a result, the Lottery shall have no obligation to pay or to secure payment of any moneys to any subcontractors.

#### **1.12.12 Independent Contractor**

Contractor shall be an independent Contractor of Lottery in the performance of the Contract. Contractor shall have the sole, absolute and exclusive control of the manner and means of its performance under the terms of this Contract except as expressly set forth herein.

#### **1.12.13 Assignment of Right to Payment**

Without the advance written consent of the Lottery, the right to receive payment under this Contract is not assignable by Contractor either in whole or in part. Any attempt to assign the right to payment without the advance written consent of the Lottery is void.

#### **1.12.14 Advertising and Media Relations**

The Lottery shall retain the sole and complete authority to advertise, provide press releases, and contact the media. Contractor shall not in any way contact the media or advertise in connection with this Contract without prior written approval of the Lottery's Contract Manager.

#### **1.12.15 Defense of Bid Protest**

Contractor, at its own expense shall fully participate in the defense of any bid protest filed by a third party.

#### **1.12.16 Maintenance of Records**

The Contractor agrees to maintain any books, records, documents, and other evidence pertaining to costs and/or performance under this Contract, including subcontracts, and hold them available for audit and inspection by the State or its agents for a period of four (4) years from the date this Contract or any extension thereto terminates or expires on its own terms.

#### **1.12.17 Labor Rates**

The Contractor must provide documentation of hourly labor rates charged to the Lottery for installation or repair service, and for any pre-authorized purchase of materials. The Contractor shall identify labor rates for each repairperson. Prevailing labor rates paid shall be pursuant to the State of California Labor code Section 1775, et seq. Copies of the prevailing rate of per diem wages are on file at Lottery headquarters, which shall be made available to any interested party on request.



## **EXHIBIT C**

### **INCOMPATIBLE ACTIVITIES AND ETHICAL CONDUCT STANDARDS**

#### **GENERAL DISCUSSION**

To maintain public confidence in the Lottery and the games, it is essential that employees conduct themselves and the business of the Lottery with honesty, integrity and impartiality. Employees must take care to avoid conflicts of interest or even the appearance of conflicts of interest by observing the rules of ethical conduct contained herein. Failure to conform to the standards set forth below may result in such disciplinary measures as the situation may warrant, including informal or formal reprimand, removal from office or termination of employment. This includes all civil service and exempt employees covered by the Lottery Act and includes contract employees.

In addition, due to the particularly sensitive nature of the Lottery and the intense public scrutiny, which the Lottery receives, and under the authority provided to the Lottery Director by the Lottery Act, some special procedures have been established for Lottery employees.

#### **DEFINITIONS**

1. Employee - Includes civil service, temporary, emergency, limited term, seasonal and exempt employees covered by the Lottery Act. Includes those persons employed under the terms of a Personal Services Contract, who are subject to all of the terms of that contract and the contract employment approval process.
2. Person - Includes individuals, firms, corporations, partnerships, associations, other governmental bodies or their agents and representatives.
3. Memorandum of Understanding Provisions - Written agreement between state and a labor organization usually for a definite term, defining conditions of employment.

#### **POLICY GUIDELINES**

1. It is the policy of the Lottery to inform its employees of activities, which are incompatible with their employment and standards for their ethical conduct as Lottery employees.
2. Managers and supervisors are responsible for assuring that their subordinates are informed of these policies and standards. New employees are to be made aware that in accepting employment they consent to these policies and standards.
3. Employee questions concerning whether a contemplated activity is prohibited or in compliance with this statement should be directed on a confidential basis to employee's immediate supervisor or the Personnel Officer.
4. It is the policy of the Lottery that individuals convicted of any felony, any gambling-related offense (felony or misdemeanor), or any misdemeanor involving moral turpitude,

dishonesty or integrity shall not be employed, appointed, or retained by the Lottery. Exceptions to this policy pertaining to misdemeanor convictions (not related to gambling offenses) may be granted by the Lottery Director or Chief Deputy Director based on the circumstances, on a case by case basis.

5. Employees may be subject to disciplinary action for violations of the policies and standards contained in the Incompatible Activities Policy Statement (Government Code Sections 19570-19588). An employee may appeal a determination of incompatibility through the third level of review, pursuant to the employee grievance procedure.
6. Employees may request exceptions to the Incompatible Activities Policy Statement where Memorandum of Understanding provisions apply. A request for exception should be submitted, in writing, to the employee's immediate supervisor.
7. This statement and subsequent revisions will be implemented by notifying employees of the proposed statement and subsequent changes, in writing, for a period of at least 30 days prior to implementation.

## **STANDARDS OF CONDUCT**

Pursuant to the provisions of Government Code Section 19990, and the approval of the Department of Personnel Administration, the Lottery has determined that the following activities are inconsistent, incompatible or in conflict with the duties, functions or responsibilities of its employees.

1. No employee shall use the prestige or influence of the State or the Lottery for the employee's private gain or advantage, or the private gain or advantage of another.
2. No employee shall use State time, facilities, equipment or supplies for private gain or advantage.
3. No employee shall use confidential information available by virtue of State employment for private gain or advantage or provide confidential information to persons to whom issuance of such information has not been authorized.
4. No employee shall receive or accept money or any other consideration from anyone other than the State for the performance of his/her duties as a Lottery employee or contract employee. This provision does not preclude accepting a meal in return for representing the Lottery at a conference, event, or sponsorship, or as a guest speaker.
5. No employee shall participate in any outside activity knowing that the activity may later be subject, directly or indirectly, to the control, inspection, review, audit or enforcement by the employee in the course of his/her duties at the Lottery.
6. Except as provided below, no employee shall directly or indirectly solicit, receive or pass on to other persons any gift, money, service, gratuity, favor, meal, entertainment, loan or any other thing of value with a fair market value of \$25 or more, regardless of whether the employee reciprocates with a like gift, from anyone who is doing or seeking to do business of any kind with the Lottery, or whose activities are regulated or controlled by

the Lottery if the gift, money, service, gratuity, favor, meal, entertainment, loan or any other thing of value may appear to be solicited, received or passed on to another wholly or partially because of the employee's employment with the Lottery.

#### **Exceptions to Item 6:**

1. Employees may accept items having a value of more than \$25 with the approval of the Lottery Director.
2. When attending a conference, convention, seminar or training meeting (conferences), employees may accept the following without regard to the value:
  - a. Promotional items which are generally available to all attendees.
  - b. Food, beverages and entertainment provided in hospitality suites which are generally open to all attendees.
  - c. Meals provided by conference hosts, vendors, or prospective vendors or their representatives which are generally available to attendees. For example, the meal might be considered generally available when those invited to the meal represent a number of different entities (lotteries, governmental organizations, companies, etc.).

The purpose of allowing exceptions for conference attendance is to allow open exchange of information. If an employee perceives that an invitation is extended with the specific intent to influence him/her, the employee should decline. Employees are expected to maintain honesty and integrity when deciding to accept or decline food, beverages and entertainment as part of a conference setting. (Note: When a meal is provided as part of a conference, the employee may not claim that meal as a subsistence expense.)

3. No employee or contract employee shall engage in outside employment as defined below without advising his/her manager/supervisor of such employment before starting outside employment. General prohibitions on outside employment to be enforced by the supervisor include:
  - a. Engaging in any employment outside State service, or outside the scope of the contract with the Lottery, compensated or not, which causes either physical or mental fatigue that results in less efficient performance of the employee's or contract employee's State or contract duties.
  - b. Accepting money, gifts, compensation or consideration in any form for service as an official or in any policy-making capacity in a nonprofit or volunteer organization which is involved in any way with Lottery operations within the employee's or contract employee's jurisdiction.
  - c. Accepting money, gifts, compensation or consideration in any form from a person other than the State for performing a duty which the employee, contract employee, or the Lottery would be expected to perform in the course of State or contract business.

- d. Performing an act in other than the capacity as a State employee or contract employee knowing that such act may later be subject, directly or indirectly, to the employee's or contract employee's control, inspection, review, audit or enforcement.
  - e. Engaging in any non-State business which is otherwise clearly inconsistent, incompatible, in conflict with or inimical to his or her duties as a State employee or a contract employee.
- 4. Each employee who is in a position to influence Lottery decisions about a supplier of goods or services to the Lottery and who has a personal relationship with the supplier, shall immediately notify his/her supervisor of the name of the supplier and the relationship. "Personal relationship" means spouse, child, parent, sibling, household member, "significant other", business associate or personal friend. A "personal friend" is defined as any person with whom the employee is acquainted who can influence the employee to the extent of creating a conflict-of-interest situation or giving the appearance that a conflict-of-interest situation exists.
  - 5. Subject to any other laws, rules, or regulations as pertain hereto, an employee shall devote his/her full time, attention, and efforts to his/her Lottery employment during his/her hours of duty as a Lottery employee.

## **POLITICAL ACTIVITIES**

The law provides guidelines for employees to follow with regard to political activities. Essentially, Government Code Sections 3201-3209 provide:

- 1. Except as otherwise provided under Government Code Sections 3201-3209, no restriction shall be placed on the political activities of an employee.
- 2. No employee may knowingly solicit or receive any kind of political contribution from State employees or persons on employment lists. However, this limitation does not prohibit an employee from communicating through the mail or by other means requests for political contributions to a significant segment of the public which may include State employees.
- 3. No employee may use any official authority to influence or to coerce the vote or political action of any State employee or persons on an employment list. This limitation applies to urging or discouraging an individual's action.
- 4. An employee may solicit or receive political contributions to promote or defeat a ballot measure which affects rates of payment, hours of work, retirement, civil service or other working conditions of State employees. However, such activity is prohibited during working hours.

## **OTHER CONSIDERATIONS**

- 1. The Lottery Act requires that the Director shall act, in all decisions, to promote and ensure integrity, security, honesty and fairness of the operation and administration of the Lottery. Under this authority, the Lottery Director, or designee, may evaluate the information on

outside employment or current or prior relationships to determine whether there is or may be a conflict with official duties and the steps that are required to eliminate the conflict.

2. Employees are advised that the Lottery Act provides that: "A ticket or share shall not be purchased by and a prize shall not be paid to a member of the commission, any officer or employee of the commission, any officer or employee of the Controller who is designated in writing by the Controller as having possible access to confidential lottery information, programs, or systems, or any spouse, child, brother, sister, or parent of that person who resides within the same household of the person." This provision of the Act does not apply to "in-law" or "step" relationships (e.g., stepparent, stepchild, mother-in-law, etc.). It does apply to legal adoptive relationships.
3. This statement and the specific activities set forth herein shall not be construed as the sole provisions of law or administrative rules that must be observed by the employees of the Lottery. The Lottery Director or the Commission may specify additional prohibited activities generally or for designated individuals by an order directed to the individual or persons to whom it applies.

## **EXCEPTIONS TO POLICY**

Employees may request exceptions to this Incompatible Activity Policy Statement where Memorandum of Understanding provisions apply. A request for exception should be submitted, in writing, to the employee's immediate supervisor.

## **APPEAL PROCESS**

1. A determination by the employee's supervisor that an activity is in conflict with the employee's duties or responsibilities may be appealed through the third level of the grievance procedure as provided below. The decision of the Lottery Director shall be final.
2. An employee may appeal a determination of incompatibility under this policy through the employee grievance procedure. However, in all cases the final level of review in the process shall be the Lottery Director or his/her designee.

## **QUESTIONS/MAINTENANCE**

Questions regarding this policy should be directed to the Personnel Office. The Personnel Office is responsible for maintaining this policy.

## **REFERENCE**

Government Code, Section 19990  
Government Code, Sections 3201-3209  
Incompatible Activities Policy Statement (Government Codes 19570-19588)  
Lottery Act

## **EXHIBIT D**

### **CALIFORNIA LOTTERY ACT Government Code, Title 2, Division 1, Chapter 12.5**

#### **Section 8880.57. Disclosures**

In order to allow an evaluation of the competence, integrity, and character of potential Lottery Contractors for the California Lottery, any person, corporation, trust, association, partnership or joint venture which submits a bid, proposal, or offer as part of procurement for a contract for any goods or services for the California Lottery, other than materials, supplies, services, and equipment which are common to the ordinary operations of state agencies, shall comply with each of the following:

- (a) At the time of the submission of the bid, proposal, or offer to the Lottery, disclose the bidder's name and address, and as applicable, the name and address of the following:
  - (1) If the bidder is a corporation, the officers, directors, and each owner, directly or indirectly, of any equity security or other ownership interest in the corporation. However, in the case of owners of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own 5 percent or more of the publicly held securities need be disclosed.
  - (2) If the bidder is a trust, the trustee and all persons entitled to receive income or benefit from the trust.
  - (3) If the bidder is an association, the members, officers, and directors.
  - (4) If the bidder is a subsidiary, the officers, directors, and stockholders of the parent company thereof. However, in the case of owners of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own 5 percent or more of the publicly held securities need be disclosed.
  - (5) If the bidder is a partnership or joint venture, all of the general partners, limited partners, or joint venturers.
  - (6) If the parent company, general partner, limited partner, or joint venturer of any bidder is itself a corporation, trust, association, subsidiary, partnership, or joint venture, then the disclosure of such information as necessary to determine ultimate ownership. However, in the case of owners of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own 5 percent or more of the publicly held securities need be disclosed.
  - (7) If the bidder proposes to subcontract any substantial portion of the work to be performed to a subcontractor, then all of the information required in this section shall be disclosed for the subcontractor as if it were itself a bidder.

- (b) After receipt of a bid, proposal, or offer, but prior to the award of a contract, the Commission may require a potential Lottery Contractor to provide any or all of the following information:
- (1) A disclosure of all the states and jurisdictions in which the bidder does business, and the nature of that business for each state or jurisdiction.
  - (2) A disclosure of all the states and jurisdictions in which the bidder has contracts to supply gaming goods or services, including but not limited to lottery goods and services, and the nature of the goods or services involved for each state or jurisdiction.
  - (3) A disclosure of all the states and jurisdictions in which the bidder has applied for, has sought renewal of, has received, has been denied, has pending, or has had revoked a gaming license of any kind, and the disposition in each state or jurisdiction. If any gaming license has not been renewed or any gaming license application has been either denied or has remained pending for more than six months, all of the facts and circumstances underlying this failure to receive a gaming license shall be disclosed.
  - (4) A disclosure of the details of any conviction or judgment of a state or federal court against the bidder of any gambling-related offense, or criminal offense other than traffic violations.
  - (5) A disclosure of the details of any bankruptcy, insolvency, or reorganization, or any judgment or pending litigation involving fraud or deceit against the bidder.
  - (6) A disclosure for each bidder who is a natural person of his or her employment, residence, educational, and military history since the age of 18 years.
  - (7) A disclosure consolidating all reportable information on all reportable contributions by the bidder to any local, state, or federal political candidate or political committee in this state for the past five years that is reportable under any existing state or federal law.
  - (8) A disclosure of the identity of any entity with which the bidder has a joint venture or other contractual arrangement to supply any state or jurisdiction with gaming goods or services, including but not limited to lottery goods or services; including a disclosure with regard to the entity of all of the information requested under paragraphs (1) to (8), inclusive.
  - (9) In the instance of a procurement for the printing of lottery tickets, for goods or services involving the receiving or recording of number selections, or for goods or services involving the determination of winners, an additional disclosure consisting of the individual federal and state income tax returns for the past three years and a current individual financial statement for each bidder who is a natural person. The disclosures provided in this paragraph shall be considered confidential and shall

be transmitted directly to the Deputy Director for Security and the Attorney General for their review.

- (10) Such additional disclosures and information as may be appropriate for the procurement involved as determined by the Commission.
- (c) With respect to the persons or entities described in paragraphs (1) to (7), inclusive, of subdivision (a), the Commission may request the disclosure of any information required in subdivision (b), which shall be relevant to the award of any contract.
- (d) No contract with any bidder who has not complied with the disclosure requirements described in this section shall be entered into or be enforceable. Any contract with any Lottery Contractor who does not comply with these requirements for maintaining the currency of the disclosures during the term of the contract as may be specified in the contract may be terminated by the Commission. In addition, the Commission may deny or cancel a contract with a Lottery Contractor or any of the persons or entities included in paragraphs (1) to (7), inclusive, of subdivision (a) if any of the following apply:
  - (1) False statements have been made in any information which is required under this section.
  - (2) Any of the persons or entities has been convicted of a crime punishable as a felony.
  - (3) Any of the persons or entities has been convicted of an offense involving dishonesty or any gambling-related offense.
- (e) This section shall be construed broadly and liberally to achieve the end of full disclosure of all information necessary to allow for a full and complete evaluation of the competence, integrity, and character of potential suppliers of the California Lottery Commission.

(1) Background Investigations/Lottery Approval of Staffing

The Lottery may investigate Contractor, its officers, directors, principals, investors, owners, employees or other associates, and/or the officers, directors, principals, investors, owners, employees, and other associates of the Contractor's parent entity, subsidiaries, and/or subcontractors at any time during the life of the Contract, at the discretion of the Director of the Security Division. The Lottery may reject a bid or terminate the contract based on the results of these investigations as provided in California Government Code sections 8880.57 and 8880.58.

Furthermore, Contractor understands and agrees that, in furtherance of the Lottery's full disclosure requirements, any person associated with the performance of the Contract may be fingerprinted and may be required to complete a Personal History Statement and an Authorization to Release Personal Background Information form.

The Lottery reserves the right to disapprove any Contractor and/or subcontractor



personnel assigned to the Lottery contract. Any personnel deemed unacceptable to the Lottery shall immediately be removed from the Contract and all facilities. All subcontracts must include a provision implementing this right.

Contractor and/or subcontractor personnel shall not be assigned to the Lottery Contract if they have ever been convicted of a felony, gambling-related offense, or a crime involving dishonesty. This Contract may be subject to termination if the Contractor knowingly assigns to or fails to remove from the Lottery contract, personnel with criminal convictions as described above.

**Attachment 1**  
**PRICE SHEET**  
**IFB # 8912**  
**WASTE DISPOSAL AND RECYCLING SERVICES**

All rates identified in this price sheet must include labor, materials, equipment, overhead, travel expenses, county hauling fees to the landfill, as well as any weight fees, hazard material disposal fees, licenses and all applicable taxes, related to the disposal of waste from the Lottery Headquarters Complex, 598, 600, and 800 North Tenth Street in Sacramento, California, as outlined in Exhibit A, Scope of Services. Recycling costs to include pick-up and delivery of shredded paper to shredder recycling and recycled items to approved Recyclers. Time for recycling to begin when the mobile shredder pulls up to the site and ends when they drive away.

<b>WASTE DISPOSAL CONTAINERS</b>	<b>Each</b>		<b>Quantity</b>		<b>Monthly</b>
4-Cubic yard Bin, 5 day a week pickup	_____	X	<u>5</u>	=	_____
6-Cubic yard Bin, 5 day a week pickup	_____	X	<u>1</u>	=	_____
40-Cubic yard Debris Box (Per Hauls needed)	_____	X	<u>1</u>	=	_____

**RECYCLE DISPOSAL CONTAINERS**

64 Gallon size Locked Security Bins	_____	X	<u>16</u>	=	_____
Executive bins	_____	X	<u>15</u>	=	_____

**DISPOSAL FEES**

Landfill Disposal Fee (per ton)	_____	X	<u>1</u>		_____
Document Destruction (shred and delivery per ton)	_____	X	<u>1</u>		_____
Shredding of tapes, video, and CD (per ton)	_____	X	<u>1</u>		_____
Recycling pickup delivery cost (per pickup)	_____	X	<u>1</u>		_____
Recycling Disposal Fee (for each trash bin)	_____	X	<u>1</u>		_____
Additional pick up rate	_____	X	<u>1</u>		_____
Recycling refund back to Lottery (per ton)	_____	X	<u>1</u>		_____

**TOTAL PRICE PER MONTH** \$ \_\_\_\_\_

I, \_\_\_\_\_, certify that I am authorized to sign this price sheet and warrant  
(Type or Print Name)

that the prices set forth are accurate, competitive within the industry and unconditional. I further certify that these prices constitute an irrevocable offer which the California Lottery may, at its option, accept or reject at any time up to one hundred eighty (180) days from the date that responses to this solicitation are due.

SIGNATURE & TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_ PHONE NUMBER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

**Attachment 2**

**TRANSMITTAL FORM**

Name of Company: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ FAX Number: \_\_\_\_\_

e-mail Address: \_\_\_\_\_

Federal Identification or  
Social Security # \_\_\_\_\_  
(whichever is applicable)

Date Business  
Established in California \_\_\_\_\_

List person(s) legally authorized to contractually bind the bidder:

1. \_\_\_\_\_  
Name Title  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
Telephone Fax Number
2. \_\_\_\_\_  
Name Title  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
Telephone Fax Number

(If more space is needed, attach page.)

Proposed subcontractor(s) (if not applicable, state N/A): \_\_\_\_\_

**NOTE: If the bidder proposes to subcontract any services and/or goods, Attachment 2A, Subcontractor Information, must be completed for each Subcontractor and submitted with its bid package.**

Services to be performed \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1. \_\_\_\_\_  
Name of Company  
\_\_\_\_\_  
Contact Person  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
Telephone \_\_\_\_\_ Fax Number \_\_\_\_\_  
\_\_\_\_\_  
Federal Identification or Social Security # (whichever is applicable)

2. \_\_\_\_\_  
Name of Company  
\_\_\_\_\_  
Contact Person  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
Telephone \_\_\_\_\_ Fax Number \_\_\_\_\_  
\_\_\_\_\_  
Federal Identification or Social Security # (whichever is applicable)  
(If more space is needed, attach page.)

**By signing this Attachment 2, the bidder is certifying to the following statements:**

1. The bidder is a legal business entity and agrees, if awarded the contract, to be registered with the California Office of the Secretary of State and remain in good standing and qualified to do business in California throughout the term of the Contract. [Call (916) 653-6814 for information.]
2. The bidder meets the following minimum qualifications:
  - a. is licensed to do business in the State of California (**attach copy of license**);
  - b. has an office in California;
  - c. has the resources, equipment, personnel, finances, etc. to provide the required services as specified in Exhibit A, Scope of Services.
  - d. has met the requirements of the bid request.
3. The bidder has made no attempt to induce any other person or firm to submit or not to submit a bid for the purpose of restricting competition.
4. The costs in the bid response have been developed and calculated independently, without consultation, communication or agreement on any matter relating to such costs with any other vendor or competitor for the purpose of restricting competition.
5. The bidder agrees to comply with all terms and conditions in Exhibit B.

6. The bidder agrees to provide required insurance as specified in Exhibit B, Section 1.8.
7. Statement of Compliance

Bidder certifies under the penalty of perjury under the laws of the State of California that the bidder is, unless exempted, compliant with the nondiscrimination program requirements of Government Code Section 12990 (a-f) and Title 2, California Code of Regulations, Section 8103.

---

**Signature of Authorized Representative**

---

**Date**

---

**Printed Name**

---

**Title**

## Attachment 2A

### SUBCONTRACTOR INFORMATION

This form must be completed for each subcontractor.

Name of Company: \_\_\_\_\_

Name of Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ FAX Number: \_\_\_\_\_

Federal Identification or  
Social Security # \_\_\_\_\_  
(whichever is applicable)

Date Business  
Established in California \_\_\_\_\_

1. The following information is required by the California Lottery Act, Section 8880.57 Disclosure, (Exhibit D) of all potential Lottery vendors. The Lottery may require additional disclosure information after receipt of bids.

Type of work to be performed:

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2. Attach copy of Subcontractor's Business License.
3. Complete the information below, as appropriate.

Type of business:

☐ Sole Owner  
☐ Corporation  
☐ Trust

☐ Association  
☐ Subsidiary  
☐ Partnership  
☐ Joint Venture

If the subcontractor is:

- a. A sole owner, then list the name and address of owner.
- b. A corporation, then list the names and addresses of officers, directors, and each owner, directly or indirectly, of any equity security or other ownership interest in the corporation. However, in the case of owners of a publicly traded corporation only the names and addresses of those known to the corporation to beneficially own 5% or more of the publicly held securities need be disclosed.

- c. A trust, then list the trustee and all persons entitled to receive income or benefit from the trust.
- d. An association, then list the members, officers, and directors.
- e. A subsidiary, then list the officers, directors, and stockholders of the parent company. In case of publicly held equity securities of a publicly traded corporation, only those who own 5% or more need be disclosed.
- f. A partnership or a joint venture, then list all general partners limited partners, or joint venturers.
- g. If the parent company, general partner, limited partner, or joint venturer of any vendor is itself a corporation, trust, association, subsidiary, partnership or joint venture, then disclose such information as necessary to determine ultimate ownership. In the case of publicly held equity securities of a publicly traded corporation, only those who own 5% or more need be disclosed.

1. \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(Telephone)

2. \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(Telephone)

### Attachment 3

#### GUARANTY

Solicitation: IFB #8912

Title: Waste Disposal, Shredding and Recycling

This Guaranty is to be completed by the vendor or parent company of vendor. Check one (1) of the boxes (A or B) below. Vendor or parent company to sign the Guaranty as appropriate, and return this Guaranty with your bid package.

- ☐ A. In the event that the agency is not a subsidiary corporation, it will be deemed that the agency guarantees performance under any contract resulting from this IFB with the full force and credit of all its assets.
- ☐ B. If the agency is a subsidiary corporation, it shall have this Guaranty completed by the parent corporation to guaranty the full and prompt performance of all covenants, terms and conditions, and contracts resulting from this IFB for the term of the contract.

1. The parent company \_\_\_\_\_ (company name) has the financial ability to meaningfully support such guaranty;
2. The official signing of this Guaranty is authorized to bind the guarantor corporation;
3. Accepts unconditional responsibility for all performance and financial requirements and obligations of the contract;
4. For good and valuable consideration, receipt of which is hereby acknowledged, the Guarantor is making the guaranty;
5. The Guarantor stipulates that if the contract is ultimately awarded to the subsidiary, the Lottery will do so in reliance upon the guaranty;
6. The undersigned corporate officer warrants (1) that he or she has personally reviewed all pertinent corporate documents, including but not limited to articles of incorporation, bylaws and agreements between the parent and the subsidiary; and (2) that nothing in these documents in any way limits the capacity of the parent to enter into the contract or guaranty;
7. The Lottery need not take any action against the vendor, any other guarantor, or any other person, firm, or corporation, or resort to any security held by it at any time before proceeding against the Guarantor and the Guarantor hereby waives any and all notices and demands which may be required to be given by any other statute or rule of law and agrees that its liability hereunder shall be in no way affected, diminished, or released by any extension of time, forbearance, or waiver which may be granted the vendor, its successor, or assignee, and that



this guaranty shall extend to and include all future amendments, modifications, and extensions of the contract and all future supplemental and other agreements with respect to matters covered by the contract which the Lottery and vendor may enter into, with or without notice to or knowledge of Guarantor but Guarantor shall have the benefit of any such extension, forbearance, waiver, amendment, modifications, or supplemental obligations of Guarantor hereunder shall be coextensive with but not in the excess of the obligations of its successor or assignee under the contract.

Guarantor agrees that the guaranty shall continue in full force and effect despite any change in the legal or corporate status of the subsidiary, including but not limited to its sale, reorganization, dissolution or bankruptcy.

I, \_\_\_\_\_, certify that I am authorized to sign and bind my company to this Guaranty.

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Company Name



## **ATTACHMENT 4**

### **IFB #8912 WASTE DISPOSAL, SHREDDING AND RECYCLING**

#### **MANDATORY**

#### **DISABLED VETERAN BUSINESS ENTERPRISE PROGRAM (DVBE)**

**DVBE GOAL 3%  
or  
GOOD FAITH EFFORT**

Attachment 4 (continued)

DISABLED VETERAN BUSINESS ENTERPRISE (DVBE)  
SUBCONTRACTORS TO BE UTILIZED



Complete and sign this form for all DVBE subcontractors to be utilized.  
Please duplicate this page for additional companies.

Name of DVBE \_\_\_\_\_ Contact Person \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

Goods/Services to be provided \_\_\_\_\_

Dollars to DVBE \$ \_\_\_\_\_ Percentage of Contract \_\_\_\_\_ %

Certifying Agency \_\_\_\_\_ Certification # \_\_\_\_\_  
(include copy of certification document)

Type of Business: Sole Owner \_\_\_\_\_ Corporation \_\_\_\_\_ Joint Venture \_\_\_\_\_  
Partnership \_\_\_\_\_ Other \_\_\_\_\_

By signing below, the Bidder indicates its intent to utilize the DVBE identified above as part of the contract associated with this solicitation, as applicable. The bidder also certifies that all information contained herein is true and correct.

\_\_\_\_\_  
**Bidder's Authorized Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Company Name**

By signing below, the DVBE certifies it has been contacted, and has expressed interest in participating in the contract in the area of work identified. The person legally authorized to contractually bind the bidder must sign this form.

\_\_\_\_\_

\_\_\_\_\_

**DVBE's Authorized Signature**

**Date**

---

**Printed Name**

---

**Company Name**

**Attachment 4 (continued)**

**DECLARATION OF COMPLIANCE  
FOR DISABLED VETERAN BUSINESS  
ENTERPRISE (DVBE) PARTICIPATION**



*Complete and sign this form certifying all the information is true and correct. This form must be signed by the person legally authorized to contractually bind each bidder (non-DVBEs and DVBEs).*

Bidder's Name \_\_\_\_\_

Contact Person \_\_\_\_\_ Telephone \_\_\_\_\_

Address \_\_\_\_\_ Fax \_\_\_\_\_

City/State/Zip Code \_\_\_\_\_

**Declaration**

I declare under penalty of perjury that the information provided in this Attachment is true and correct.  
(Please check one)

\_\_\_\_\_ Our firm is a DVBE.

\_\_\_\_\_ Our firm is a bidder who will provide for DVBEs subcontracting participation  
of 3%, under the contract resulting from this solicitation.

\_\_\_\_\_ Our firm completed the Good Faith Effort steps required and will subcontract  
\_\_\_\_% participation for this bid under the contract resulting from this solicitation.

\_\_\_\_\_ Our firm completed the Good Faith Effort steps required; however we were  
unable to provide DVBE participation.

Executed on \_\_\_\_\_  
Month/Date/Year

In the city of \_\_\_\_\_ State of \_\_\_\_\_

Signature \_\_\_\_\_  
Authorized Representative

Printed Name \_\_\_\_\_

Title \_\_\_\_\_



## **ATTACHMENT 5**

### **IFB #8912 WASTE DISPOSAL, SHREDDING AND RECYCLING**

#### **OPTIONAL**

#### **SMALL AND MICROBUSINESSSS PARTICIPATION (SBP)**

**SBP GOAL 10%**

#### **FORMS**

Attachment 5

SMALL BUSINESS OR MICROBUSINESS  
SUBCONTRACTOR TO BE UTILIZED



Complete and sign this form for all small business and microbusiness subcontractors that you plan to utilize as part of your small business participation. Please duplicate this page for additional companies.

IFB Name Waste Disposal, Shredding and Recycling IFB #8912

Name of Subcontractor \_\_\_\_\_ Contact Person \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

Goods/Services to be provided \_\_\_\_\_

Business Category \_\_\_ Small \_\_\_ Micro Dollars to Subcontractor \$ \_\_\_\_\_

Percentage of total contract \_\_\_\_\_ %

Certifying Agency \_\_\_\_\_ Certification # \_\_\_\_\_

(include copy of certification document)

Requesting Lottery Certification \_\_\_\_\_ Yes

By signing below, the Bidder indicates its intent to utilize the small business or microbusiness identified above as part of the contract associated with this solicitation, as applicable; and also certifies that all information contained herein is true and correct.

\_\_\_\_\_  
**Bidder's Authorized Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Company Name**

By signing below, the small business or microbusiness certifies it has been contacted, and has expressed interest in participating in the contract in the area of work identified; and also certifies that all information contained herein is true and correct.

\_\_\_\_\_  
**Subcontractor's Authorized Signature**

\_\_\_\_\_  
**Date**

Printed Name \_\_\_\_\_

Company Name \_\_\_\_\_

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**Attachment 5 (continued)**

**DECLARATION OF COMPLIANCE  
FOR SMALL BUSINESS AND MICROBUSINESS  
SUBCONTRACTOR PARTICIPATION**



*Complete and sign this form certifying all the information is true and correct. This form must be signed by the person legally authorized to contractually bind the bidder.*

IFB Name Waste Disposal, Shredding and Recycling IFB #8912

Bidder's Name \_\_\_\_\_

Contact Person \_\_\_\_\_ Telephone \_\_\_\_\_

Address \_\_\_\_\_ Fax \_\_\_\_\_

City/State/Zip Code \_\_\_\_\_

**Declaration**

I declare under penalty of perjury that the information provided in this Attachment is true and correct.  
(Please check one)

\_\_\_\_\_ Our firm is a Small Business or Microbusiness bidder

\_\_\_\_\_ Our firm is a Nonsmall Business bidder providing for small business or  
microbusiness subcontracting participation of \_\_\_\_%

Executed on \_\_\_\_\_  
Month/Date/Year

In the city of \_\_\_\_\_ State of \_\_\_\_\_

Signature \_\_\_\_\_  
Authorized Representative

Printed Name \_\_\_\_\_



Title\_\_\_\_\_

Telephone\_\_\_\_\_Fax\_\_\_\_\_

*CSL 1178 (R08/02*